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| 09/981,459   | 10/16/2001  | Michael H. D'Amico   | 13251US01                           | 5919                   |
| 7590 05/12/2008  |             |                      |                                     |                        |
| Ronald E. Larson<br>McAndrews, Held & Malloy, Ltd.<br>34th Floor<br>500 W. Madison Street<br>Chicago, IL 60661 |             |                      | EXAMINER<br>MCCULLOCH JR, WILLIAM H |                        |
|  |             |                      | ART UNIT<br>3714                    | PAPER NUMBER           |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/981,459

**Applicant(s)**

D'AMICO ET AL.

**Examiner**

William H. McCulloch

**Art Unit**

3714

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 21-26 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 21-26 and 34-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to amendments received 2/13/2008. Claims 1-10, 21-26, and 34-39 are pending in the application, with claims 1, 21, and 34 currently amended.

#### ***Withdrawal of Claim Rejections under 35 USC § 112 and Claim Interpretation***

2. In a previous Office Action mailed 11/13/2007, the Examiner rejected claims 1, 21, and 34 (and claims depending therefrom) under 35 USC § 112, first paragraph. The reasoning for the rejection was two-fold: first, the claims recited that data was removed from the second database "in response to" data being transmitted. This language has been removed from the claim and therefore the corresponding portion of the rejection is moot.

The second element of the rejection revolved around a recitation that certain steps and processes recited in the claims were performed "without command from the central authority". The claims are now amended such that only one step (or process) is explicitly performed without command from the central authority. That one step or process involves in pertinent part transmitting at least a portion of the periodically obtained input data required by one of the gaming machines to keep said one gaming machine operational from the second database to said one gaming machine without accessing the first database. Applicant presented evidence that the recitation of performing the step or process without **command** from the central authority on pages 9-11 of the Remarks section.

Applicant's arguments are persuasive and the previous grounds of rejection under §112 are hereby withdrawn. The Examiner wishes to clarify the scope of the term "command" as it will be interpreted in light of the claim limitations and Applicant's arguments in the Remarks section. At the onset, it is important to note that the claimed invention *defines* the periodically obtained input data as data that is periodically obtained from the first database (see e.g., claim 1, step 4) and stored in the second database (see e.g., claim 1, step 5). Because the 'periodically obtained input data' or 'POID' is categorically obtained from the first database, the first database *must* have a role in providing the POID over the network to the second database. Furthermore, there is no indication in the claimed invention as to whether transmission of POID takes place under command from the central authority or not. However, in e.g., step 6 of claim 1, the POID is transferred from the second database to a gaming machine *without accessing* the first database. Clearly the first database *must* have been accessed at some point in order to obtain the POID in the first place. Therefore, the Examiner interprets the limitation of e.g., step 6 such that the gaming machine does not obtain the POID from the first database directly, but rather the gaming machine obtains POID from the second database. Finally, the claimed invention states that transmission of the POID from the second database to the gaming machine is performed *without command from* the central authority (i.e., the first database). As stated above, the POID *must* come from the first database, so the POID itself is not a *command*, in the scope of the claims. Thus, the claim limitation *without command* must mean that a separate

Art Unit: 3714

instruction (*command*) from the first database is not required in order to transmit POID from the second database to the gaming machine.

It should be noted that the terminology in claim 34 is different from that of claim 1 and the terms should not be confused between different sets of claims. For example, claim 1 recites a first and a second database, wherein the first database is located in the central authority and the second database is not. Claim 34 recites a first database in the central authority, which generally corresponds to the first database of claim 1. However, in contrast to claim 1, there is no recitation of a second database in claim 34. The corresponding structure in claim 34 is instead termed data "stored apart from the first database". For purposes of this action, data stored apart from the first database is treated as data stored in a second database. It should be appreciated that regardless of the terminology used, the concepts of claim 34 are the same as those of claim 1 as they apply to the Examiner's interpretation described above.

### ***Claim Rejections - 35 USC § 102/103***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 10, 21-24, 26, and 34-38 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. 5,766,076 to Pease et al. (hereinafter Pease).

Regarding claims 1 and 21, Pease teaches a progressive gaming system and method comprising a plurality of gaming machines (e.g. gaming devices 108a-108c) and a first database located in a central authority (central computer system 106) and arranged to store input data to be sent to one or more of the plurality of gaming machines to keep said gaming machines operational and output data generated by the plurality of gaming machines (see at least 3:10-4:10). Pease further describes an "apparatus" (i.e., a system) for providing data storage and communications between the gaming machines and the first database comprising: a network (e.g. data networks connecting casino system 102 to processor 138 and/or connecting processor 138 to central computer system 106); a data processing unit spaced apart from the first database (processor 138). The data processing unit comprises a second database and a programmed hardware configured to poll the gaming machines to obtain the output data generated by the gaming machines over the network (see at least 5:35-44 and 6:11-23), to store said output data in the second database (see at least 6:11-23), to transmit said output data over the network to the first database from the second database (see at least 6:46-52 and 7:3-13), to periodically obtain the input data from the first database (see at least 6:58-62), to store the periodically obtained input data in the second database (see at least 6:58-62), and to transmit at least a portion of the periodically obtained input data required by one of the gaming machines to keep said

one gaming machine operational from the second database to said one gaming machine without accessing the first database (see above cites, 2:12-16, and fig. 1). Note in claim 21, storing data "apart from the first database" is anticipated by Pease in the description of processor 138 above. In claim 34, regarding separate groups of gaming machines and their respective data stored apart from the first database and apart from each group's data, Pease anticipates such in the teaching of separate casino systems having respective processors similar to that of processor 138 (see at least 5:67-6:4 and fig. 1).

As described in an Advisory Action mailed 7/19/2007, claims 1, 21, and 34 are directed toward removing output data from a second database after the transmission of the output data, the output data having been transmitted over a network from the second database to the first database. As was also described in the Advisory Action, such feature is an inherent feature in Pease, at least because Pease's equivalent of a second database (e.g. processor 138) is limited by the size of the processor's data storage. The data stored in the second database must therefore be discarded in order to maintain normal operation and prevent overloading the data storage capacity. Since the data originates in gaming machines, gets transmitted to the second database, and further transmitted to the first database, the data must not be removed from the second database until after the data has been transmitted to the first database. Thus, the removal of output data from the second database after transmission of output data is inherent in Pease. Furthermore, Pease teaches that the above steps of claims 1, 21, and 34 are performed, at least in part, by processor 138 (see at least 5:35-44 and 6:11-

23). Pease additionally teaches methods other than polling may be alternately be employed, such as interrupt systems (see 7:61-64), which would require data to be transmitted/updated only when a device determines that such operation is appropriate.

35 USC § 102 vs. 35 USC § 103:

Based upon the interpretation of the terms "command" and "without accessing the first database" as described above, the Examiner submits that Pease anticipates the claimed invention. Specifically, section 6 of claim 1 recites in pertinent part transmitting "at least a portion of the periodically obtained input data required by one of the gaming machines to keep said one gaming machine operational from the second database to said one gaming machine without accessing the first database, said programmed hardware being configured to perform at least said process (6) without command from the central authority." Pease teaches transmitting periodically obtained input data required by one of the gaming machines to keep said one gaming machine operational from the second database to said one gaming machine without accessing the first database, (e.g., the poll message periodically sent from the central computer system 106 to gateway processor 138 may then be conveyed to the gaming devices 108; see at least 6:46-62). The gaming devices in Pease do not communicate *directly* with the central computer system, and therefore, according to the Examiner's interpretation, the transmission occurs *without accessing the first database*. Furthermore, Pease teaches only that the poll message (which corresponds to the claimed "periodically obtained input data" or "POID") is transmitted from the central database to the gateway processor 138, and from the gateway processor to the gaming device. As described above, the



claimed *command* (as in *without command from the central authority*) is separate from the POID. Pease does not teach a separate *command* from the central computer system. Therefore, Pease anticipates these limitations of the claimed invention as required by 35 USC 102.

Should it be determined that Pease cannot anticipate the claimed invention, the Examiner notes that the claimed invention would still be obvious in view of the cited prior art. Pease explicitly teaches that the poll message containing the current value of a jackpot is sent from the central server to the gateway processor (see at least 6:60-7:2). Pease additionally states that interrupt systems may be used instead of poll driven systems, and indicates that the differences are known to those of ordinary skill in the art (see 7:61-64). Under an alternate interpretation, Pease lacks in explicitly teaching that the data is transmitted from the second database (gateway processor) to the gaming machine (gaming device) without command from the central authority (central computer system). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Pease such that the gaming devices request data from the gateway processor via an interrupt system without command from the central server. It should be noted that the central server still polls the gateway processor based on this obvious modification, while the gaming device(s) request information from the gateway processor via interrupt method. Such modification would be a simple substitution of one known element for another to obtain predictable results. See *KSR International Co. v. Teleflex Inc.* Therefore, the claimed invention would alternatively be obvious in view of the cited prior art under 35 USC 103.

Regarding claim 2, Pease teaches a first network between the gaming machines and the second database, and a second network between the second database and the first database (see at least fig. 1).

Regarding claim 3, Pease teaches a first processor arranged to manage the first database and a second processor arranged to manage the second database (see at least 5:40-41 and 5:61-66).

Regarding claims 4-5, 10, 22-23, 26, and 35-37, Pease teaches gaming machines comprising meters arranged to store meter data and wherein the output data comprises the meter data or jackpot data, wherein the data comprises meter data for gaming machines played within a predetermined preceding time period (see at least 5:56-60, 6:24-7:2, 8:13-18).

Regarding claim 6, Pease teaches the gaming machines are responsive to a card bearing an information code and wherein the input data comprises credit balances addressable in response to the identification code (see at least 3:37-4:9, 5:44-60, 6:12-23, and 7:53-8:31).

Regarding claims 7, 24, and 38, Pease teaches the second database storing the credit balances (see at least 3:37-4:9 and 7:53-8:12). Pease further teaches storing credit balances in the first database, which are then accessed via an identification code (player tracking card) sent from the gaming machine, and storing the corresponding credit balance in the second database (processor 138) before sending the data to the respective gaming machine (see *Id.*). Note the above teaching of multiple casino sites

connected to the central computer system with respect to processing data from a first bank and a second bank of gaming machines (see at least 5:67-6:4 and fig. 1).

6. Claims 8, 9, 25, and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Pease (in either interpretation) in view of U.S. 6,682,421 to Rowe et al. (hereinafter Rowe).

Pease teaches the invention substantially as described above. Pease additionally teaches that player tracking systems are known in the art and may include a card bearing encoded information, wherein the card is purchase by a player and may be linked to an existing account (see at least 3:37-4:9). Pease lacks in explicitly teaching that a ticket is generated at a gaming machine. In a related disclosure, Rowe teaches that as technology in the gaming industry progressed, "the traditional method of dispensing coins or tokens as awards for winning game outcomes [became] supplemented by ticket dispensers which print ticket vouchers that may be exchanged for cash or accepted as credit of indicia in other gaming machines for additional game play. An award ticket system, which allows award ticket vouchers to be dispensed and utilized by other gaming machines, increases the operational efficiency of maintaining a gaming machine and simplifies the player pay out process. An example of an award ticket system is the EZ pay ticket system by International Game Technology of Las Vegas, Nev." See col. 1, lines 36-47. Rowe further teaches, "An important component of an award ticket system is the ticket validation process. Typically, a game player's satisfaction with an award ticket system is based upon the ease by which the ticket vouchers may be validated or utilized within the context of game playing. When the

ticket validation process is difficult, a game player may become dissatisfied with the game playing area offering the award ticket system and frequent a game playing area without an award ticket system or a game playing area offering a simpler ticket validation process.” See col. 1, lines 56-65. Finally, Rowe teaches that all of the gaming machines print ticket vouchers, which may be exchanged for cash or accepted as credit of indicia in other gaming machines (2:5-7). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the system taught by Pease to generate tickets at the gaming machine as taught by Rowe in order to provide increased operational efficiency of maintaining a gaming machine and simplify the player pay out process, thereby increasing player satisfaction as taught by Rowe.

### ***Response to Arguments***

7. Applicant's arguments filed 2/13/2008 have been fully considered but they are not persuasive at least for the reasons given in the grounds of rejection above.

Additionally, the Examiner wishes to address one other argument raised by the Applicant. On page 12 of the Remarks, Applicant contends that the operation of the hierarchical progressive jackpot system disclosed in Pease requires that the central computer system 106 be available and operable, citing Figures 2-6. First, the Examiner submits that there is absolutely no indication in Pease about whether or when the central computer system must be available, despite Applicant's assertions to the contrary. In fact, Pease indicates that his system is a hierarchical system “in which

there is no need for direct communication between gaming terminals and the central system" (see 2:12-16).

Applicant alludes to various portions of the specification that (allegedly) suggest the purpose of Applicant's invention is to provide gaming machines that may still function even if the central authority is temporarily disabled (see e.g., page 11 of Remarks). The Examiner first notes that there is absolutely no recitation in the claimed invention to require such functionality. As such, the argument that Pease's invention is "fundamentally different" is unpersuasive. Furthermore, Applicant gives no indication as to how long the system could allegedly operate if the central server (or network connection thereto) failed. One of ordinary skill in the art would recognize that the invention of Pease would still be functional even if the central server were to fail temporarily because the server is not *a/ways* communicating with the gateway servers. Pease explicitly teaches that the system operates on a poll driven system, at least between the central server and the gateway server, indicating that there are periods of time when no communication takes place. Therefore, if the network link between the central and a gateway server(s) failed between polling cycles, the system would never "know" because no communication was needed during that time. So, if the central server of Pease is disabled for a time that is less than a polling cycle, the gaming machines would be unaffected, in exactly the same manner that Applicant alleges his system operates. The same would be true if the network connecting the central server and the gateway server were to fail temporarily for a time that is less than a polling cycle.

In view of the above explanations, the claimed invention fails to show patentability over the cited prior art.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. McCulloch whose telephone number is (571) 272-2818. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3714

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/W. H. M./  
Examiner, Art Unit 3714  
4/30/2008

/Robert E Pezzuto/  
Supervisory Patent Examiner, Art Unit 3714